APPENDIX B
CONSULTATIONS WITH AGENCIES

This appendix contains SEA's consultation correspondence with Federal, state, and local agencies. The first letter is a sample letter, sent to the U.S. Fish and Wildlife Service on October 3, 2001, which is representative of 29 others submitted to agencies requesting comments and assistance during the scoping period. Table B-1 lists all the agencies with whom SEA has corresponded and the dates of the correspondence. Copies of all correspondence between SEA and the agencies listed are included in this appendix. Addresses of the agencies are found directly after Table B-1.

Table B-1
Dates of Correspondence between Agencies

Agency	Dates of Contact
Federal	
National Aeronautics and Space Administration	10/3/2001; 3/11/2002; 4/17/2002
National Marine Fisheries Service	10/3/2001; 8/23/2002
Natural Resource Conservation Service	10/3/2001; 5/31/2002
U.S. Army Corps of Engineers	10/3/2001; 10/23/2001; 4/12/2002
U.S. Coast Guard	10/3/2001; 10/15/2001; 3/28/2002
U.S. Department of Transportation	10/3/2001
U.S. Environmental Protection Agency	10/3/2001
U.S. Federal Aviation Administration	10/3/2001; 10/31/2001;1/2/2002
U.S. Fish and Wildlife Service	10/3/2001; 3/7/2002; 5/28/2002; 8/1/2002
State	
Railroad Commission of Texas	10/3/2001
Texas Coastal Coordination Council	3/11/2002
Texas General Land Office	10/3/2001; 10/16/2001
Texas Historical Commission	10/3/2001; 10/31/2001; 3/4/2002; 7/18/02
Texas Department of Transportation	10/3/2001
Texas Commission on Environmental Quality	10/3/2001
Texas Parks and Wildlife	10/3/2001; 11/20/2001; 12/19/2001
Local	
City of Houston	4/26/2002; 8/5/2002
City of Houston: Traffic Management Branch	10/3/2001
City of Houston Public Works	10/3/2001
City of Pasadena Traffic and Transportation	10/25/2001
Deer Park Schools	10/3/2001
Harris County Agricultural Extension Office	10/3/2001

Table B-1 (continued)

Agency	Dates of Contact (sent)
Harris County Community Development Department	10/3/2001
Harris County Fire and Emergency Services	10/3/2001
Harris County Flood Control District	10/3/2001; 2/1/2002
Harris County Hospital District	10/3/2001
Harris County Office of Emergency Management	10/3/2001
Harris County Public Health and Environmental Services	10/3/2001; 11/5/2001
Harris County Public Infrastructure Department	10/3/2001; 10/23/2001
Historical Commission of Harris County	10/3/2001
Houston-Galveston Area Council Community and Environmental Planning Department	10/3/2001

Addresses of Agencies Consulted

Federal

David Hickens
NASA
Environmental Office
JA131, 2101 NASA Road 1
Houston, TX 77058

Rusty Swafford
Fishery Biologist
National Marine Fisheries Service
Habitat Conservation Branch
4700 Avenue U
Galveston, TX 77551-5997

John Burt
State Conservationist
Natural Resource Conservation Service
WR Poage Federal Building
101 South Main Street
Temple, TX 76501-7602

Col. Leonard Waterworth
District Engineer/Commander
U.S. Army Corps of Engineers
Galveston District
P.O. Box 1229 / 2000 Fort Point Road
Galveston, TX 77551

Phil Johnson
U.S. Coast Guard
8th Coast Guard District, Office of Bridge Administration
Hale Boggs Federal Building
501 Magazine Street
New Orleans, LA 70130-3396

Rodrick M. Seeley, Director
Southwest Region
U.S. Department of Transportation
Office of Pipeline Safety
2320 LaBranch, Rm. 2100
Houston, TX 77004

Norm Sears, Ecologist
U.S. Environmental Protection Agency
Region VI
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

Doug Murphy
Manager, Air Traffic Division – ASW-500
U.S. Federal Aviation Administration
2601 Meachum Boulevard
Fort Worth, TX 76137

Addresses of Agencies Consulted (continued)

Carlos Mendoza
Field Supervisor
U.S. Fish & Wildlife Service
Texas Ecological Services Field Office
17629 El Camino Real, Suite 211
Houston, TX 77058

State

Jerry Martin
Rail Division Director
Railroad Commission of Texas
P.O. Box 12967
Austin, TX 78711-2967

Thomas R. Calnan
Coastal Biologist
Texas Coastal Coordination Council
P.O. Box 12873
Austin, TX 78711-2873

Armand Posas
Railroad Liason - Houston District
Texas Department of Transportation
P.O. Box 1386
Houston, TX 77251-1386

Garry McMahan
Regional Director
Texas General Land Office
La Porte - Field Office
11811 North D Street
La Porte, TX 77571

Lawrence Oaks
State Historic Preservation Officer
Texas Historical Commission
PO Box 12276
Capitol Station
Austin, TX 78711-2276
(512) 463-6100

Mark Fisher
Water Quality Standards Unit
Texas Commission on Environmental Quality
Mail Code 150, P.O. Box 13087
Austin, TX 78711-3087

Kathy Boydston
Wildlife Biologist
Habitat Assessment Branch
Texas Parks and Wildlife
4200 Smith School Road
Austin, TX 78744

Local

William Hlavacek
Traffic Management Branch
City of Houston
P.O. Box 1562
Houston, TX 77251-1562

Herb Lum
City of Houston Public Works
611 Walker Street-16th Floor
Houston, TX 77251-1562

Leigh Ream
Director of Traffic and Transportation
City of Pasadena
1211 East Southmore
Pasadena, TX 77502

Floyd Burden
Executive Director for Operations
Deer Park Schools
Administration Building
203 Ivy Avenue
Deer Park, TX 77536

Susan Russell
County Extension Director
Harris County Agricultural Extension Office
2 Abercrombie Drive
Houston, TX 77084

Lora D. Routt
Planning and Development Division Chief
Harris County Community Development Department
8410 Lantern Point
Houston, TX 77054

Addresses of Agencies Consulted (continued)

Fred C. Windisch
CEO/Fire Marshal
Harris County Fire and Emergency Services
480 N. Sam Houston Parkway, East
Houston, TX 77060

Ken Sheblak, P.E., Senior Engineer
Harris County Flood Control District
Planning Group
9900 Northwest Freeway
Houston, TX 77092

John A. Guest
President & CEO
Harris County Hospital District
2525 Holly Hall
Houston, TX 77054

Jim White
Emergency Management Coordinator
Harris County Office of Emergency Management
6922 Old Katy Road
Houston, TX 77024

Rob Barrett
Assistant Director
Pollution Control
Harris County Public Health and Environmental Services
107 N. Munger
Pasadena, TX 77506

Michael Reily
Utility Coordinator
Harris County Public Infrastructure Department
1001 Preston, 7th Floor
Houston, TX 77002

Al Davis
Chairman
Historical Commission of Harris County
929 Waxmyrtle Lane
Houston, TX 77079

Jeff Taebel, Manager
Houston-Galveston Area Council
Community and Environmental Planning Department
3555 Timmons, Suite 500
P.O. Box 22777
Houston, TX 77227-2777

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

October 3, 2001

Mr. Carlos Mendoza
Field Supervisor
U.S. Fish and Wildlife Service
Texas Ecological Services Field Office
17629 El Camino Real, Suite 211
Houston, TX 77058

Re: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Dear Mr. Mendoza:

On August 30, 2001, San Jacinto Rail Limited (San Jacinto) and The Burlington Northern and Santa Fe Railway (BNSF) (collectively the Applicants) filed a petition with the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority for construction by San Jacinto and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop). Because the construction and operation of this project has the potential to result in significant environmental impacts, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. The purpose of this letter is to request information from the U.S. Fish and Wildlife Service on the natural resources within the project area that the project could potentially affect, as well as any permits and approvals required for project construction.[1]

The proposed project involves the construction and operation of approximately 12.8 miles of new rail line between the Bayport Loop petro-chemical and plastic production facilities and the former Galveston, Henderson & Houston Railroad line, owned by the Union Pacific Railroad Company (UP), near the southeast corner of Ellington Field at Texas State Highway 3 (see attached map). As a result of the new construction, BNSF would have access to the facilities located in the Bayport Loop using the new line, and the facilities there, which are now served solely by UP, would be provided with a choice of rail providers.

[1] Representatives of San Jacinto and BNSF may have already contacted you and may contact you in the future as part of the permit application process.

The proposed right-of-way width would be 100 feet. The Applicants anticipate operating an average of one train each way per day comprised of approximately 36 - 66 railcars, totaling 13,000 to 23,000 loaded railcars per year. Most shipments would consist of non-hazardous plastic pellets. The remainder would consist of chemicals traveling in tank cars, of which approximately 1,500 to 7,000 would contain hazardous materials, and, to a lesser extent, other miscellaneous inbound and outbound commodities.

We have enclosed a copy of the U.S.G.S. 7.5-minute quadrangle map showing the location of the proposed rail line. Please contact us if you require additional map coverage.

The proposed route crosses both Armand and Taylor Bayous. Armand Bayou would be spanned with a bridge to minimize impacts to surface waters. Within the Bayport Loop area, Taylor Bayou would be spanned by a causeway and bridge crossing.

The proposed project is being assessed to determine compliance with Section 7 of the Endangered Species Act. To assist in this effort, we are requesting a list of federally-listed and proposed threatened and endangered species for the area as well as your comments on the proposal and instructions for any further coordination. We are also consulting with the National Marine Fisheries Service, U.S. Army Corps of Engineers, Texas Parks and Wildlife, and Texas Natural Resource Conservation Commission.

Information on any additional issues or concerns that you consider appropriate would also be appreciated. We request that you respond by November 5, 2001 so that we may schedule any meetings, site visits or surveys, conduct any necessary follow-up activities, and incorporate your response into the scope of study, as appropriate (we may contact you prior to this date to discuss the project and try to schedule a meeting).

ICF Consulting is serving as the independent third-party consultant to SEA to assist SEA in the preparation of the EIS. Please send your comments to:

Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

As part of the scoping process for the EIS, SEA will soon develop and make available a draft scope of study for the EIS and provide a period for the submission of written comments. Concurrently, SEA plans to hold scoping meetings to provide further opportunities for public involvement and input into the scoping process. The dates and locations for the scoping meetings will be announced at a later date. Following the issuance of a draft scope and the comment period, SEA will issue a final scope of study for the EIS.

After issuing the final scope of study, SEA will prepare a Draft EIS (DEIS) for the project. The DEIS will address those environmental issues and concerns identified during the scoping process. It will also contain SEA's preliminary recommendations for environmental mitigation measures. The DEIS will be made available upon its completion for public and agency review and comment.

SEA will prepare a Final EIS (FEIS) that considers comments on the DEIS from the public and agencies. In reaching its decision in this case, the Board will take into account the DEIS, the FEIS, and all environmental comments that are received. If you have any questions, please do not hesitate to contact Alan Summerville, ICF Consulting Project Director, at (703) 934-3616, or Dana White, SEA Project Manager, at (202) 565-1552.

Sincerely,

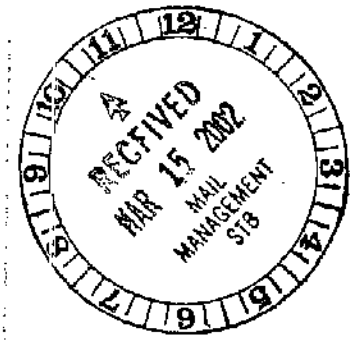
Victoria Rutson
Chief
Section of Environmental Analysis

Enclosure

National Aeronautics and
Space Administration
Lyndon B. Johnson Space Center
2101 NASA Road 1
Houston, Texas 77058-3696

March 11, 2002

Reply to Attn of: JA161-02-031



Ms. Dana White
Section of Environmental Analysis
Environmental Filing
Office of the Secretary
Case Control Unit
STB Finance Docket No. 34079
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Dear Ms. White:

The NASA Lyndon B. Johnson Space Center (NASA JSC) is pleased to submit comments on the proposed Draft Scope of Study for the Environmental Impact Statement found in the Surface Transportation Board Finance Docket No. 34079, decided November 9, 2001.

NASA JSC encompasses 3 different facilities in the Houston/Clear Lake area – the JSC main campus, Ellington Field (EF), and the Sonny Carter Training Facility (SCTF). The preferred route of Burlington Northern Santa Fe's (BNSF) proposed rail line would pass directly between EF and the SCTF. NASA JSC's comments are made in light of the proximity of the proposed rail line to those two facilities.

While EF is part of the Houston Airport System, NASA JSC is the largest customer housed there, conducting such mission-critical activities as astronaut flight training in T-38 aircraft, research flights into the effects of microgravity and the composition of the atmosphere in KC-135 and WB-57 aircraft, and the transportation of hardware for the International Space Station (ISS) in the giant fat-bodied Super Guppy aircraft.

The SCTF contains NASA's Neutral Buoyancy Laboratory (NBL), the Software Development and Integration Laboratory (SDIL), and the Light Manufacturing Facility (LMF). The NBL supports extravehicular astronaut training and procedure development (spacewalks) for astronaut crews working on the Space Shuttle and assembling the ISS. This one-of-a-kind facility is utilized for training at least 5 days a week with personnel working around the clock providing up to 2,760 hours of training per year. The NBL's main feature is the world's largest in-ground water tank, which is 202 feet long by 101 feet wide by 40 feet deep holding 6.2 million gallons of water. The tank is 20 feet

above grade and 20 feet below grade. All personnel working underwater in the NBL breathe enriched air nitrox, a 46 percent oxygen mixture. The SDIL is a development and test facility for the ISS flight data systems software development, integration, test, verification, and validation. The LMF accommodates construction, modification, and storage of training mockups of ISS modules and other spacecraft used in the NBL. In addition, the SCTF also has associated with it Building 924, which houses the Super Guppy shipping fixture, and Building 925, which protects plastic and fiberglass NBL mockups from prolonged UV exposure.

NASA JSC appreciates the efforts involved in developing this proposal and fully supports the Surface Transportation Board's approach to investigate a wide array of impacts affecting the surrounding communities, not only during construction but also once operation of the rail line commences. The following comments represent the main issues raised by the proposed scope that should be investigated due to their potential effects on the operation of JSC's facilities.

1. **Land Use**:

A. Describe how vibration of railway traffic could cause structural damage to the NBL pool foundation or cause uneven settlement of joints or feed line pipes.

Comment: The objective of this task is for the engineer to determine if there exists a reasonable expectation that the proposed action known as the Bayport Loop build-out will produce ground vibrations that will negatively impact the pool and associated buildings including supporting equipment at the SCTF such as breathing gas systems and the pool water filtration system. Specific examples of possible areas of concern include structural damage to the NBL pool foundation, uneven settlement at joints in the supply/return water lines to the pool, generation of higher stresses in the structural connections joining beams between the surrounding pool deck structure and the concrete pool walls, excessive movement in the overhead crane rails, and generation of excessive background noise to divers/astronauts in the pool.

B. Describe the microwave communications system of the railroad trains and investigate the possibility of electromagnetic interference with astronaut life support systems or communications at the NBL.

C. Describe how the proposed rail line is integrated into the City of Houston, EF Master Plan.

Comment: JSC is the largest customer housed at EF and we understand that the routing of the track as shown in the proposed alignment would prevent a future extension of Runway 17L/35R. While the intent to add a second parallel instrument runway may not (yet) be in the City's Airport Master Plan, the track to the south of

that runway would restrict the extension for all time. A vision to the future, given the generally expected growth in air travel, would suggest that such an option should remain open.

5. **Air Quality**:

A. Describe the potential air quality impact resulting from new rail construction activities and vehicle delays.

Comment: Some additional investigation should be included to determine what the effects of rail construction and regular daily travel will be to the air quality surrounding the SCTF.

B. Estimate the emission rate and perform dispersion modeling of carbon monoxide (CO) from railroad locomotive diesel engines to determine the impact to SCTF's breathing air intake.

Comment: There is a question whether the diesel locomotive exhaust might be a concern for SCTF's breathing air intake. According to NBL Standard Operating Procedure DX12-0002 Attachment A-12 "NBL liquid oxygen & gas standards", the standard for breathing air CO maximum is 10.0 ppm. For comparison, the typical ambient CO level in Houston is less than 1.0 ppm. However, a simple environmental air dispersion screening model run indicated possible elevated CO concentrations at SCTF; therefore, this problem needs to be researched more completely.

6. **Noise**:

A. Describe the potential noise impact during new rail line construction and operation to the NBL pool or associated communication equipment used for underwater operations.

9. **Safety**:

A. Describe hazardous material safety factors for the transportation of hazardous materials and the potential for a derailment and/or chemical release and how JSC employees (SCTF and EF) will be alerted in time to effectively protect themselves by sheltering in place or evacuating.

Comment: Investigation efforts should include identification of the various types of hazardous chemicals that are likely to be transported and the effects of a spill to one-of-a-kind equipment and facilities at the SCTF.

B. Describe how a chemical release that contaminates JSC facilities will be mitigated and by whom.

Comment: Regardless of whether the product released in a chemical incident is hazardous or not, JSC facilities damaged by dust, chemical or debris, through no fault of NASA, should be the responsibility of the causal agent to repair, restore, or mitigate.

10. **Transportation Systems**:

A. Describe the type of railroad safety warnings devices that will be installed and where they will be located at the point where the tracks cross the access road between SCTF and EF.

B. Describe any overhead railroad obstructions where the tracks cross the access road.

Comment: A minimum height clearance of 25 feet is required, if the tracks are level with the top of the access road, to carry out current NASA operations. If tracks are graded above the top of the access road then the height requirement will increase.

C. Describe the clear distance between any and all railroad safety arms, stanchions, etc.

Comment: A minimum of 25 feet clearance between stanchions and other safety devices is required to carry out current NASA operations.

D. Describe the railroad tracks running parallel with Runways 22 and 04 and investigate the potential hazard caused by train headlight beams shining directly at arriving and departing aircraft.

NASA JSC appreciates the opportunity to submit our comments on this proposed scoping by the Surface Transportation Board. We welcome any further questions or discussion regarding the above comments, which can be directed to Perri Fox at (281) 483-3157.

Cordially,

Joel B. Walker FOR
Acting Director, Center Operations

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

April 17, 2002

Ms. Perri Fox
Center Operations
National Aeronautics and Space Administration
Lyndon B. Johnson Space Center
2101 NASA Road 1
Mail Code JA161
Houston, Texas 77058

RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Dear Ms. Fox:

As we notified Mr. David Hickens, in our letter dated October 3, 2001, San Jacinto Rail Limited (San Jacinto) and The Burlington Northern and Santa Fe Railway (BNSF) filed a petition with the Surface Transportation Board (Board) on August 30, 2001, pursuant to 49 U.S.C. 10502, for authority for construction by San Jacinto and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop).

The construction and operation of this project has the potential to result in significant environmental impacts. Therefore, as you are aware, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate.

Based on the National Aeronautics and Space Administration, Lyndon B. Johnson Space Center's (NASA JSC) comments, dated March 11, 2002, on the proposed Draft

Scope of Study for the EIS, SEA recognizes that two of the proposed rail line alignments would pass between the Sonny Carter Training Facility, which contains NASA's Neutral Buoyancy Laboratory, and Ellington Field, which NASA uses for training and other flights. Given the proximity of the proposed rail line project to NASA facilities, and NASA's expertise regarding these facilities, we need to ascertain whether NASA JSC wishes to act as a cooperating agency under 40 CFR 1501.6 in the preparation of this EIS, or whether you would prefer to review the draft EIS along with other commenting agencies.

Thank you for interest and assistance. I would appreciate your response at your earliest convenience. If you have further questions, please feel free to contact Dana White, SEA project manager, at (202) 565-1552, or Alan Summerville of ICF Consulting, SEA's third-party independent consultant for this project, at (703) 934-3616.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

August 23, 2002

Dr. Joseph Powers
Regional Administrator
National Marine Fisheries Service
9721 Executive Center Drive, North
St. Petersburg, FL 33702

RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Dear Dr. Powers:

As you are aware, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires the Surface Transportation Board (Board) and other Federal agencies to consult with the National Marine Fisheries Service (NMFS) and the Secretary of Commerce regarding any action or proposed action authorized, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). Therefore, I wish to notify you that the Board's Section of Environmental Analysis (SEA) is preparing an Environmental Impact Statement (EIS) regarding the proposed rail line construction and operation referenced above and now pending before the Board.

The Draft EIS includes an evaluation of the environmental consequences of the Proposed Action and four other Build Alternatives as well as a No-Build Alternative and the No-Action Alternative. The Proposed Action and all of the Build Alternatives include a proposed bridge crossing of Taylor Bayou, which has designated EFH for the white shrimp, brown shrimp, red drum and Spanish mackerel. Because the Proposed Action has the potential to adversely effect EFH, the Board is required to initiate EFH consultation in order to satisfy the Magnuson-Stevens Act requirements.

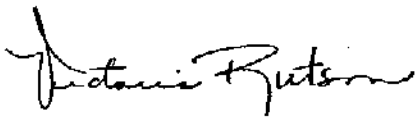
As you are aware, members of SEA's independent third-party contractor, ICF Consulting, Inc. and its sub-contractors, have discussed the project and the EFH consultation

process with Ms. Heather Young of your staff on several occasions. Based on these discussions, I understand that the consultation request (this letter) and EFH Assessment Report for the Proposed Action must be stand-alone documents. In addition, as requested by Ms. Young, we propose to include the EFH Assessment Report and a summary of consultation with NMFS in the Draft EIS.

The EFH Assessment Report is included as an attachment to this letter. The report was prepared by EEE Consulting, Inc. (EEE), a sub-contractor to ICF Consulting, Inc.

I would appreciate your review of this consultation notice and the EFH Assessment Report. If you have any questions, please feel free to call Ms. Dana White of my staff at (202) 565-1552, or Ian Frost of EEE at (804) 883-0016.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

cc: Heather Young, NMFS
Ian Frost, EEE Consulting, Inc.
Alan Summerville, ICF Consulting, Inc.

USDA United States Department of Agriculture

Natural Resources Conservation Service

101 South Main
Temple, Texas
76501-7602

Subject: LNU-Farmland Protection-
Proposed Bayport Loop Railroad
Harris County, Texas

May 31, 2002

ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

Attention: Alan Summerville, Project Director

We have reviewed the information provided concerning proposed Bayport Loop Railroad in Harris County, Texas. This is part of an Environmental Evaluation for the above-referenced railroad being prepared for the U. S. Surface Transportation Board. We have evaluated the soils for this project as required by the Farmland Protection Policy Act (FPPA).

The proposed project does contain Prime and Statewide Important Farmland soils as defined by the FPPA. We made some assumptions based on information in your letter that the project is approximately 12.8 miles long and about 100 feet wide. We calculated that to be about 155 acres of land that would be acquired for the project. We outlined the project on the soil survey of Harris County, Texas and evaluated the soils. Approximately 86.3 acres is classified as Prime Farmland and 68.7 is classified as Statewide Important Farmland by the FPPA. These soils had a composite score of 86 and the Total Points on Part VII of the CPA-106 is 114. This site will require no additional consideration since the rating score is less then 160. The FPPA states, "Sites receiving a total score of less than 160 need not be given further consideration for protection and no additional sites need to be evaluated", 7CFR Part 658.4 (c) 2.

Attached is the completed CPA-106 (Farmland Conversion Impact Rating) form for this project indicating the exemption status of this proposed project.

Thanks for the resource materials you submitted to evaluate this project. If you have any questions please call James Greenwade at (254)-742-9960 or Sam Brown at (254)-742-9854, Fax (254)-742-9859.

Thanks,

James M. Greenwade
Soil Scientist
Soil Survey Section
USDA-NRCS, Temple, Texas

U.S. DEPARTMENT OF AGRICULTURE
Natural Resources Conservation Service

NRCS-CPA-106
(REV.3-02)

FARMLAND CONVERSION IMPACT RATING FOR CORRIDOR TYPE PROJECTS

PART I *(To be completed by Federal Agency)*

3. Date Of Land Evaluation Request: 10-3-2001

4. Sheet 1 of

1. Name of Project: Proposed Bayport Loop Rail Road

5. Federal Agency Involved: Surface Transportation Board

2. Proposed Land Use: Rail Transportation

6. County and State: Harris Counmty, Texas

PART II *(To be completed by NRCS)*

1. Date Request Received By NRCS10-18-2001

2. Person Completing Form: James greenwade

3. Does the corridor contain prime, unique, statewide or local important farmland? YES ☒ NO ☐
(If no, the FPPA does not apply - do not complete additional parts of this form)

4. Acres Irrigated: 9438

Average Farm Size: 477

5. Major Crop(s): Grain Sorghum

6. Farmable Land In Government Jurisdiction: Acres: 820,200 %73

7. Amount of Farmland As Defined in FPPA: Acres: 769,800 %69

8. Name of Land Evaluation System Used: LESA

9. Name of State or Local Site Assessment System: NONE

10. Date Land Evaluation Returned by NRCS: 5-31-2002

PART III *(To be completed by Federal Agency)*

	Alternative Corridor For Segment: Corridor A	Corridor B	Corridor C	Corridor d
A. Total Acres To Be Converted Directly	155			
B. Total Acres To Be Converted Indirectly	0			
C. Total Acres In Site	155			

PART IV *(To be completed by NRCS)* Land Evaluation Information

A. Total Acres Prime And Unique Farmland	86.3			
B. Total Acres Statewide Important or Local Important Farmland	68.7			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted	0.0001			
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value	20			

PART V (To be completed by NRCS) Land Evaluation Criterion
Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points): 86

PART VI *(To be completed by Federal Agency)* Corridor Assessment Criteria
(Criteria are explained in 7 CFR 658.5 b & c. For Non-Corridor project use form AD-1006)

	Maximum Points	Corridor A	Corridor B	Corridor C	Corridor D
1. Area In Non-urban Use	(15)	5			
2. Perimeter In Non-urban Use	(10)	5			
3. Percent Of Corridor Being Farmed	(20)	10			
4. Protection Provided By State and Local Government	(20)	0			
5. Size Of Present Farm Unit Compared To Average	(10)	5			
6. Creation Of Non-farmable Farmland	(25)	0			
7. Availability Of Farm Support Services	(5)	3			
8. On-Farm Investments	(20)	0			
9. Effects Of Conversion On Farm Support Services	(25)	0			
10. Compatibility With Existing Agricultural Use	(10)	0			
TOTAL CORRIDOR ASSESSMENT POINTS	160	28			

PART VII *(To be completed by Federal Agency)*

Relative Value Of Farmland *(From Part V)*	100	86			
Total Corridor Assessment *(From Part VI above or local site assessment)*	160	38			
TOTAL POINTS *(Total of above 2 lines)*	260	114			

1. Corridor Selected: A

2. Total Acres of Farmlands to be Converted by Project: 155

3. Date Of Selection:

4. Was A Local Site Assessment Used? YES ☐ NO ☒

5. Reason For Selection: Total points less than 160

Name of Federal agency representative completing this form:

Date:

NOTE: Complete one form for each segment with more than one Alternate Corridor

(See Instructions on reverse side)

Form NRCS-CPA-106 (03-02)

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

October 23, 2001

Mr. Fred Anthamatten
Chief - Policy Analysis Section
U.S. Army Corps of Engineers, Galveston District
P.O. Box 1229 / 2000 Fort Point Road
Galveston, TX 77551

RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Dear Mr. Anthamatten:

As we notified Colonel Waterworth in our letter dated October 3, 2001, San Jacinto Rail Limited (San Jacinto) and The Burlington Northern and Santa Fe Railway (BNSF) filed a petition with the Surface Transportation Board (Board) on August 30, 2001, pursuant to 49 U.S.C. 10502 for authority for construction by San Jacinto and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop).

The construction and operation of this project has the potential to result in significant environmental impacts. Therefore, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. As you are aware, the project would require a Section 404 permit from the U.S. Army Corps of Engineers for the filling of wetlands. The purpose of this letter is to ascertain whether the U.S. Army Corps of Engineers wishes to act as a cooperating agency under 40 CFR 1501.6 in the preparation of this EIS or whether it would prefer to review the draft EIS along with other commenting agencies.

Please feel free to contact Dana White of my staff at (202) 565-1552, or Alan Summerville of ICF Consulting, SEA's third- party consultant for this project at (703) 934-3616 if you have any questions.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

REPLY TO
ATTENTION OF:

April 12, 2002

Policy Analysis Section

Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street NW
Washington, DC 20423

Dear Ms. Rutson:

This is in response to your October 23, 2001, letter asking whether the U.S. Army Corps of Engineers would like to act as a cooperating versus a commenting agency on the Environmental Impact Statement (EIS) being produced by your agency on the San Jacinto Rail Limited and The Burlington Northern and Santa Fe Railway project, in Harris County, Texas. This project would involve the construction of approximately 13 miles of rail line to serve the petro-chemical industries in the Bayport Industrial District.

According to the preliminary information we've received in our office, this project will most likely require a Department of the Army (DA) permit before it can be constructed. Section 404 of the Clean Water Act requires anyone proposing to place fill in waters of the United States (including wetlands/marshes) to obtain a DA permit prior to initiating any work. Section 10 of the Rivers and Harbors Act of 1899 requires anyone proposing to perform work or place a structure in a navigable water to obtain a DA permit prior to commencing the activity.

Based on our current workload, we do not believe that we have the ability to adequately serve as a cooperating agency on the production of the EIS; however, we would like to act as a commenting agency on the document. As a commenting agency, we can review the document and address the content of any sections which pertain to the environmental impacts of the proposed project, especially those regarding wetlands and navigable waters. We appreciate the offer to serve as a cooperating agency and hope that our input as a commenting agency will assist in the production of your environmental document. Should you have any questions concerning this matter, please contact Kerry M. Stanley at the letterhead address or by telephone at 409-766-6345.

Sincerely,

Casey Cutler
Acting Chief, Policy Analysis Section

U.S. Department of Transportation
United States Coast Guard

Commander
Eighth Coast Guard District

501 Magazine Street
New Orleans, LA 70130-3396
Staff Symbol: (obc)
Phone: (504) 589-2965
FAX:

16591A
October 15, 2001

Mr. Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

Dear Mr. Summerville:

We have received a letter from Ms. Victoria Rutson, Chief of Environmental Analysis Section of the Surface Transportation Board in Washington, DC, regarding the Burlington Northern and Santa Fe Railway Company's proposed project to construct a new rail line in the Bayport Industrial District near Houston, Harris County, Texas. Ms. Rutson referred to you as the Consulting Project Director for the project. The proposed new rail line will cross Armand Bayou, Big Island Slough and Taylor Bayou. Since these waterways are tidally influenced, they are considered navigable waterways of the United States and subject to Coast Guard jurisdiction.

Taylor Bayou is a relatively large waterway that is known to be used by both commercial and recreational vessels. Therefore, a Coast Guard bridge permit will be required for this crossing. Armand Bayou and Big Island Slough may or may not require bridge permits, depending on their use by commercial and recreational vessels. Before we can make a determination, we will need additional information about the waterways. I am enclosing a Bridge Project Questionnaire for each waterway which, when completed, should provide the information we need. Please exercise particular attention to your description of the type and length of vessels, their frequency of transits, means of propulsion and cargoes they transport if they are used commercially. The sizes and types of commercial and recreational vessels which normally use a waterway determine, to a great extent, whether a proposed bridge project will meet the criteria for a permit exemption or if a bridge permit will be required.

If you have any questions, please contact Phil Johnson at (504) 589-2965.

Sincerely,

MARCUS N. REDFORD, P.E.
Chief, Bridge Administration Branch
By direction of the Commander
Eighth Coast Guard District

Encl: (1) Bridge Project Questionnaires

U.S. Department of Transportation
United States Coast Guard

Commander
Eighth Coast Guard District
Hale Boggs Federal Building

501 Magazine St.
New Orleans, LA 70130-3396
Staff Symbol: (obc)
Phone: (504)589-2965
FAX: (504)589-3063

BRIDGE PROJECT QUESTIONNAIRE

Please provide the following information:

A. NAVIGATION DATA:

1. Name of Waterway: _____

1a. Mileage along waterway measured from mouth or confluence _____

1b. Tributary of _____ at mile _____.

2. Geographic Location: _____
(Road Number City County State)

3. Township, section and range, if applicable: _____

4. Tidally influenced at proposed bridge site? Yes____ No _____.
Range of tide _____

5. Depth and width of waterway at proposed bridge site:

	Depths	Widths
At Mean High Tide	_____	_____.
At Mean Low Tide	_____	_____.

6. Character of present vessel traffic on waterway. If none , so state: None_____.
Canoe _____ Rowboat _____ Small Motorboat _____ Cabin Cruiser _____.
Houseboat _____ Pontoon Boat _____ Sailboat .

6a. Provide vertical clearance requirement for largest vessel using the waterway:____.

6b. Provide photograph of each type of vessel using the waterway.

7. Are these waters used to transport interstate or foreign commerce?
Yes _____ No _____.

7a. Are these waters susceptible to use in their natural condition or by reasonable improvement as a means to support interstate or foreign commerce?
Yes _____ No _____.

7b. Any planned waterway improvements to permit larger vessels to navigate (to your knowledge)? _____ If so, what are they? _____
_____

ENCLOSURE (1)

8. Any natural or manmade obstructions, bridges, dams, weirs, etc. downstream or upstream? Yes _____ No _____ .

8a. If yes, provide upstream/downstream location with relation to the proposed bridge. _____

8b. If bridges are located upstream or downstream, provide vertical clearance at mean high water and mean low water and horizontal clearance normal to the axis of the channel. _____

8c. Provide a photograph of the bridge from the waterway showing channel spans.

9. Will the structure replace an existing bridge? Yes _____ No _____ .

9a. Provide permit number and issuing agencies of permits for bridge(s) to be replaced. _____

9b. Provide vertical clearance at mean high water and mean low water and horizontal clearance normal to the axis of the channel for the proposed bridge.

_____

10. List names and addresses of persons whose property adjoins bridge right-of-way.

_____

_____

_____

_____

11. List names and addresses/location of marinas, marine repair facilities, public boat ramps, private piers/docks along the waterway within ½ mile of the bridge site.

_____

_____

_____

_____

12. Attach location map and plans for the proposed bridge; including vertical clearances above mean high water and mean low water and horizontal clearance normal to axis of the waterway.

13. Attach three (3) photographs taken at the proposed bridge site: one looking upstream, one looking downstream, and one looking along the alignment centerline across the bridge site.

Date: Signature:

Attachments: Location Map
Bridge Plans
Photographs

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

March 28, 2002

Mr. Marcus Redford, P.E.
Chief - Bridge Administration Branch
U.S. Coast Guard, Eighth Coast Guard District
Hale Boggs Federal Building
501 Magazine Street
New Orleans, LA 70130-3396

RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Dear Mr. Redford:

As we notified Mr. Phil Johnson in our letter dated October 3, 2001, San Jacinto Rail Limited (San Jacinto) and The Burlington Northern and Santa Fe Railway (BNSF) filed a petition with the Surface Transportation Board (Board) on August 30, 2001, pursuant to 49 U.S.C. 10502 for authority for construction by San Jacinto and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop).

The construction and operation of this project has the potential to result in significant environmental impacts. Therefore, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. As you are aware, the project may require a U.S. Coast Guard bridge permit for the bridges across Armand and Taylor Bayous. Also, all of the waterways mentioned in the project are navigable waterways of the United States, and therefore subject to Coast Guard jurisdiction. Mr. Johnson has indicated that for this type of project, the Coast Guard would like to act as a

cooperating agency under 40 CFR 1501.6 for the preparation of the EIS. The purpose of this letter is to formally invite the Coast Guard to act as a cooperating agency.

Please feel free to contact Dana White of my staff at (202) 565-1552, or Alan Summerville of ICF Consulting, SEA's third-party independent consultant for this project at (703) 934-3616 if you have any questions.

Sincerely,

Victoria Rutson

Victoria Rutson
Chief
Section of Environmental Analysis

U.S. Department
of Transportation
Federal Aviation
Administration

Southwest Region
Arkansas, Louisiana
New Mexico, Oklahoma,
Texas

Fort Worth, Texas 76193-0000

OCT 31 2001

Ms. Victoria Ruston
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, DC 20423

Dear Ms. Ruston:

We are in receipt of your letter dated October 3, 2001, regarding the proposed new railroad line in Houston, Harris County, Texas.

We look forward to working on the preparation of the Environmental Impact Statement (EIS). Depending on the alignment of the proposed project, we may have Federal actions associated with the proposal, such as a change to the Airport Layout Plan (ALP).

At this time, we have not made the decision to become a cooperating agency with the Surface Transportation Board, but must reserve this right. We will work with you to meet the requirements of the National Environmental Policy Act (NEPA). In addition, Federal Aviation Administration (FAA) must comply with the Clean Air Act, specifically the conformity regulations.

Our role will be limited by our Federal actions associated with the proposal. Typically, these are limited to those locations depicted on the Ellington Field ALP. Within the EIS, we need to examine the alternative railroad alignments with the impact on aviation activity including air carrier enplanements and airside and landside development at the airport.

We appreciate your interest in aviation, the NEPA process, and trust this is responsive to your request. Should the FAA decide to become a cooperating agency, we will contact you. Enclosed are the orders governing the FAA's compliance with environmental rules and regulations: FAA Order 5050.41, the Airport Environmental Handbook and FAA Order 1050.1d, Change 4.

If you have any questions regarding FAA's participation, please contact Ms. Nan L. Terry, of the Texas Airports Development Office at (817)-222-5607.

Sincerely,

Original Signed by

Naomi L. Saunders
Manager, Airports Division

cc:
Mr. Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

Dr. Kent McLemore
Houston Airport System
P.O. Box 60106
Houston, Texas 77205-0106

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

January 2, 2002

J. Michael Nicely
Manager, Texas Airports Development Office
U.S. Department of Transportation
Federal Aviation Administration
2601 Meacham Boulevard
Fort Worth, TX 76137-4298

RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Dear Mr. Nicely:

As we notified Mr. Doug Murphy in our letter dated October 3, 2001, San Jacinto Rail Limited (San Jacinto) and The Burlington Northern and Santa Fe Railway (BNSF) filed a petition with the Surface Transportation Board (Board) on August 30, 2001, pursuant to 49 U.S.C. 10502 for authority for construction by San Jacinto and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop).

The construction and operation of this project has the potential to result in significant environmental impacts. Therefore, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. As you are aware, the proposed project may involve a federal action on behalf of the Federal Aviation Administration, such as changes to the Ellington Field Airport Layout Plan. The purpose of this letter is to ascertain whether the Federal Aviation Administration wishes to act as a cooperating agency under 40 CFR 1501.6 in the preparation of this EIS or whether it would prefer to review the draft EIS along with other commenting agencies.

Please feel free to contact Dana White of my staff at (202) 565-1552, or Alan Summerville of ICF Consulting, SEA's third- party consultant for this project at (703) 934-3616 if you have any questions.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Division of Ecological Services
17629 El Camino Real #211
Houston, Texas 77058-3051
281/286-8282 / (FAX) 281/488-5882

March 7, 2002

Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

Dear Mr. Summerville:

This responds to your October 9, 2001 scoping letter requesting our comments and concerns with the proposed Build-Out to the Bay Loop project near Houston, Harris County, Texas. The proposed project involves the construction and operation of approximately 12.8 miles of new rail line between the Bayport Loop petro-chemical and plastic production facilities and the former Galveston, Henderson & and Houston Railroad line, owned by the Union Pacific Railroad Company, near the southeast corner of Ellington Field at Texas State Highway 3. The proposed right-of-way would be 100 feet. The Applicants anticipate operating an average of one train each way per day comprised of approximately 36 - 66 railcars.

Only one route has been marked on your enclosed map and this route is identified as the preferred route. Section 102(C)(iii) of the National Environmental Policy Act requires that there be alternatives to a proposed action. One way to determine feasible alternatives is to delineate a corridor or study area and then identify areas of concern within that area. For your project, the Service recommends that you look at an area located between Genoa-Red Bluff Road and/or Fairmont Parkway, S.H. 3, residential subdivisions on the south and Galveston Bay on the east.

Within this study area, the Service recommends that the proposed route follow existing rights-of-way or other previously disturbed areas. Although the actual areas converted by highways, railways, and power line right-of-ways may cover only a small proportion of a region, the fragmentation of habitats caused by these projects is often severe, especially in forested environments and along riparian corridors. These disturbances can cause (1) dramatic physical disruption to the continuous vegetative community; (2) disruption to the structure and function of habitat; and (3) impacts to resident wildlife, which must negotiate, tolerate, and cope with the habitat barriers.

A review of aerial photographs indicate that suitable habitat for the endangered plant Texas prairie dawn-flower *Hymenoxys texana* occurs in the proposed project area. However, a survey of this area by a qualified individual is needed yet to determine whether the plant is present at the site.

Prairie dawn is a small annual reaching a height of up to 4 inches that is traditionally found in poorly drained depressions or saline swales around the periphery of low natural pimple (mima) mounds in open grasslands. However, many of the prairie dawn sites around rapidly developing urban areas have been disturbed by the leveling of the mounds. Often brush and other woody vegetation have invaded the area surrounding the small,

mostly barren areas where prairie dawn occurs. Normally, these small areas are sparsely vegetated and the soil is covered with a blue-green alga but prairie dawn has also been found in the mowed areas of public parks. General information on the plant is enclosed.

The proposed eastern terminus of the railway is at the proposed Bayport Container Terminal. It is to be reasonably expected that once this terminal is built, the usage of the railway will increase dramatically. This increase in usage should be evaluated in the environmental documents. Of particular concern is the increased chance of derailment, and the effect a derailment would have on Armand Bayou, especially if hazardous material are involved.

Finally, the NEPA process is intended to assist the Surface Transportation Board and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on the proposed action is made. One of the stated purposes of the NEPA Act is to promote efforts which will prevent or eliminate damage to the environment. The lest damaging alternative to this project would be to use the facilities that already exist and which already serve the target petro-chemical and plastic production facilities.

Thank you for the opportunity to provide comments. If you have any questions or if we can be of further assistance, please contact Edith Erfling at 281/286-8282.

Sincerely,

Frederick T. Werner
Assistant Project Leader, Clear Lake ES Field Office

Enclosure

STATUS: Endangered (51 FR 8683-March 13, 1986) without critical habitat. Recovery Plan approved in 1989.

DESCRIPTION: This member of the sunflower family (Asteraceae) is a small, single-stemmed or branching annual reaching a height of up to 6 inches. Leaves clustered at the plant base are spoon-shaped, with entire or toothed margins. Stem leaves are alternate, narrow with parallel sides, and no or few teeth on the margin. The small heads (a cluster of flowers) are 0.15 to 0.23 inch long with small yellowish disk flowers and minute ray flowers that appear to be missing. Seeds are cone-shaped, obscurely 4-angled, and hairy.

HABITAT: Occurs in sparsely vegetated areas of fine-sandy compacted soil. Specifically, the species occurs in the northern part of the Gulf Coastal Prairie, where it is found in poorly drained depressions or saline swales around the periphery of low, natural pimple mounds (mima mounds) in open grasslands. These mostly barren areas are sparsely vegetated and the soil is often covered with a blue-green alga (*Nostoc sp.*). It can also occur on disturbed soils such as rice fields, vacant lots, and pastures if the soil structure remains relatively intact.

DISTRIBUTION:

Present: In Texas: Fort Bend and Harris Counties.

Historic: In Texas: Harris County (and possibly La Salle).

THREATS AND REASONS FOR DECLINE: Habitat destruction and alteration due to residential development and road construction. Many of the sites around rapidly developing urban areas have been disturbed, with leveling of the pimple mounds and invasion by brush and other woody species.

OTHER INFORMATION: This species flowers from March to early April and seeds mature from April to May. Composite thrips (*Microcephalothips abdominalis*) are suspected pollinators. Recovery Plan approved in 1989. First collected in 1889, the species was considered extinct by many until it was rediscovered in 1981.

REFERENCES:

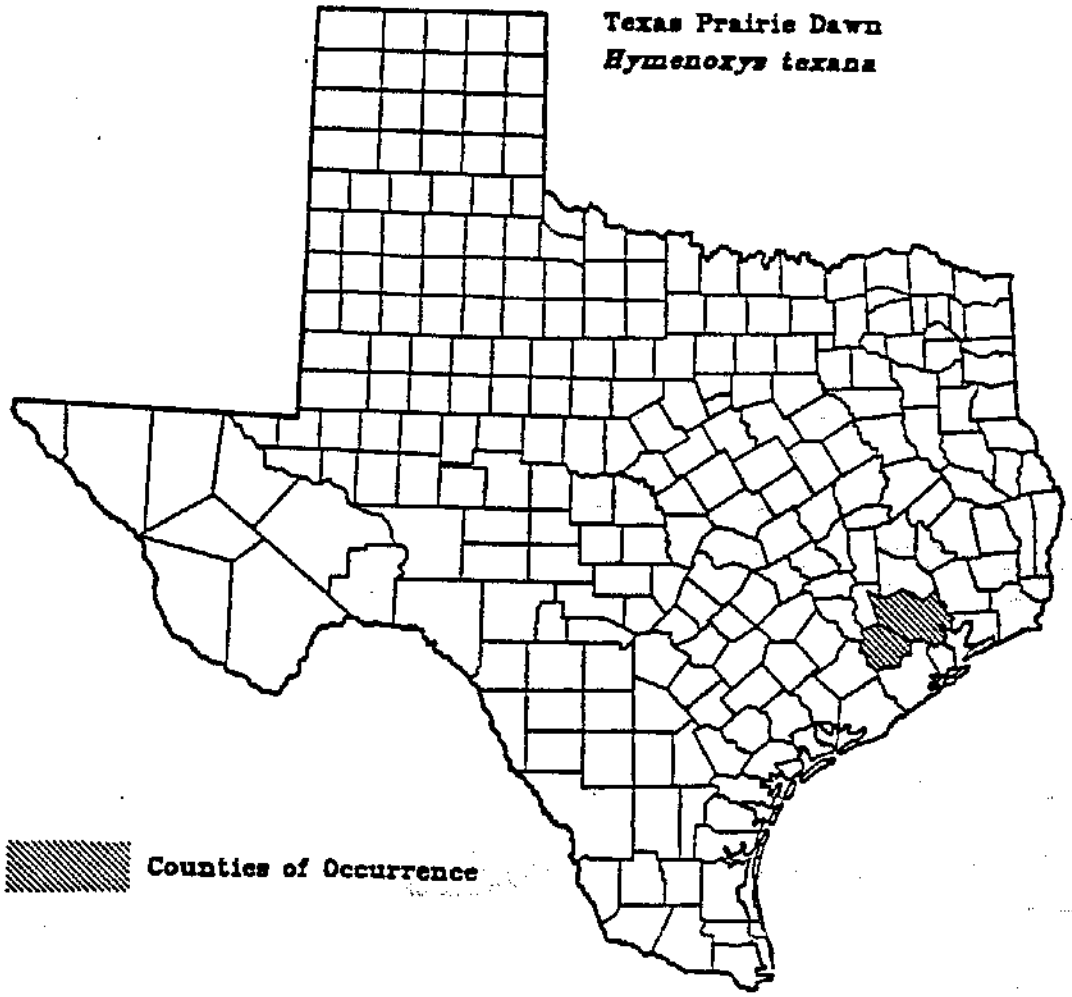
Correll, D.S., and M.C. Johnston. 1970. Manual of the Vascular Plants of Texas. Texas Research Foundation, Renner, Texas. 1,881pp.

Mahler, W.F. 1982. Status Report on *Hymenoxys texana*. U.S. Fish and Wildlife Service, Endangered Species Office, Albuquerque, NM. 10pp.

Poole, J.M., and D.H. Riskind. 1987. Endangered, Threatened, or Protected Native Plants of Texas. Texas Parks and Wildlife Department, Austin, Texas.

U.S. Fish and Wildlife Service. 1989. *Hymenoxys texana* Recovery Plan. Endangered Species Office, Albuquerque, NM. 53pp.

REV. DATE 6/95


Texas Prairie Dawn
Hymenoxys texana
Counties of Occurrence

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

May 28, 2002

Mr. Frederick Werner
Assistant Project Leader
U.S. Fish & Wildlife Service
Clear Lake Ecological Services Field Office
17629 El Camino Real #211
Houston Texas 77058-3051

RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas: Section 7 Compliance

Dear Mr. Werner:

Thank you for your letter dated March 7, 2002, regarding the proposed rail line construction and operation referenced above and now pending before the Surface Transportation Board (Board). Your comments are acknowledged concerning the need to identify feasible alternatives, and the need to evaluate the potential impacts of forest fragmentation and riparian corridors in the Draft Environmental Impact Statement (DEIS) that the Section of Environmental Analysis (SEA), the section within the Board responsible for completing the environmental review process, is preparing.

You will recall that on April 4, 2002, SEA's representative met with members of your staff and others to discuss this project and compliance with the Section 7 process. The meeting was attended by Edith Erfling and John Haufman of your staff, Alan Summerville, of ICF Consulting (SEA's independent third party contractor), Ian Frost of EEE Consulting (a sub-contractor to ICF Consulting), and James Thomas of HDR (consultants working for applicants San Jacinto Rail Limited and The Burlington Northern and Santa Fe Railway Company). Alan Summerville explained that SEA has been identifying and refining reasonable and feasible alternatives that will be considered in the DEIS. We would be glad to brief you about the alternative alignments that will be considered in the DEIS when that process is complete, within the next month.

The main purpose of my letter is to confirm the actions that the Board will need to take, as the lead Federal agency for this project, to satisfy Section 7 of the Endangered Species Act. I have outlined my understanding of the requirements based on our discussions with Edith Erfling of your staff. As you know, the presence of the Federally listed endangered Texas prairie dawn (*Hymenoxys texana*) was recently confirmed in the project area.

Pursuant to informal consultation, HDR is preparing the survey for the Texas prairie dawn, and should be submitting it to your office soon. The survey was performed by a team of biologists from HDR and EEE Consulting, Inc. HDR and the Applicants will be filing a Section 404 permit application with the U.S. Army Corps of Engineers for the project and, therefore, needed to conduct the survey for Section 7 compliance related to the Section 404 permit. SEA also needs the survey information for the DEIS to provide information on the presence of the Texas prairie dawn, and to analyze potential impacts to the plant from the proposed project. Ian Frost of EEE Consulting served as the Board's representative and independently verified the Texas prairie dawn survey in the field and reviewed HDR's draft survey.

The survey team identified a number of sites, in the project area, that contain the Texas prairie dawn. The survey team also identified several sites that appeared to have suitable conditions for the Texas prairie dawn, but which did not exhibit any individual plants at that time. We hope that the alternative alignments considered in the DEIS will avoid such sites; however, it is possible that some of the sites would be located within the footprint of an alignment. I understand that the U.S. Fish and Wildlife Service will not require further survey or further action should one of the alternative alignments impact such a site. Your confirmation of this interpretation would be appreciated.

I also understand from Edith Erfling that the U.S. Fish and Wildlife Service will require a hydrological analysis should an alignment be located in proximity to a site that has a Texas prairie dawn population. I am requesting any guidance that you can offer about how the hydrological analysis should be conducted and what separation distance is sufficient to preclude the need for a hydrological analysis.

Finally, I would like clarification of the need to prepare a Biological Assessment for this proceeding. It is my understanding that a Biological Assessment would not be required if (1) the footprint of the project would not impact a population of the Texas prairie dawn directly, and (2) the hydrological analysis shows that there would be no adverse effect from interference with seed dispersal.

I would greatly appreciate your review of my letter and response to my interpretations. I look forward to further consultation with you on this project. Please feel free to contact Ian Frost of EEE Consulting at 804-883-0016, or Dana White of my staff at (202) 565-1552, if you have any questions.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

cc: Ian Frost, EEE Consulting
Alan Summerville, ICF Consulting

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Division of Ecological Services
17629 El Camino Real #211
Houston, Texas 77058-3051
281/286-8282 / (FAX) 281/488-5882

August 1, 2002

James A. Thomas
HDR Engineering, Inc.
17111 Preston Road, Suite 200
Dallas, TX 75248-1230

Dear Mr. Thomas:

This responds to your July 8, 2002 letter and Texas prairie dawn (*Hymenoxys texana*) survey report for the proposed San Jacinto Rail Limited, Bayport Industrial Loop Build-In project (Finance Docket No. 34079).

A total of 100 sites with apparently suitable habitat for Texas prairie dawn were surveyed within the proposed project area. Texas prairie dawn plants were found at 18 of these sites. Based on the results of this survey, SJRL developed revised alignments for the alternatives which will avoid the Texas prairie dawn sites by 15 or more feet.

The U.S. Fish and Wildlife Service concurs that alignments 1, 2b/2d, and 2c will have no effect and alignment 2c is not likely to adversely affect the endangered Texas prairie dawn flower. This concurrence is based on the information provided in your survey report and is contingent upon the implementation of best management practices as described in the survey report.

No further endangered species consultation will be required for this project unless there are changes in the scope or location of the project.

If you have any questions or if we can be of further assistance, please contact Edith Erfling at 281/286-8282.

Sincerely,

Frederick T. Werner
Assistant Field Supervisor, Clear Lake ES Field Office

Coastal Coordination Council

P.O. Box 12873 • Austin, Texas 78711-2873 • (512) 463-5385 • FAX (512) 475-0680

March 11, 2002

Office of the Secretary
Case Control Unit
STB Finance Docket No. 34079
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001
Attention: Dana White
Section of Environmental Analysis
Environmental Filing

Re: San Jacinto Rail Limited-Construction exemption-and the Burlington Northern and Santa Fe Railway Company-Operation Exemption-Build-out to the Bayport Loop near Houston, Harris County, Texas

Dear Ms White:

The Coastal Coordination Council (Council) appreciates the opportunity to comment on the scope of the Environmental Impact Statement (EIS) for the above referenced project. In a letter dated October 15, 2001, Mr. Garry McMahan, Regional Manager of the General Land Office Field Office in La Porte, indicated that the EIS for the proposed rail project would be reviewed for consistency with the goals and policies of the Coastal Management Program (CMP).

The Council's policy for major actions, 31 TAC §501.15, requires that the agencies and local governments having jurisdiction over the proposed activity must meet and coordinate their permitting reviews relating to the proposed activity. This coordination must take place prior to taking an action for which a federal environmental impact statement is required, such as the proposed action referenced above. The agencies and local governments must, also, to the greatest extent practicable, consider the cumulative and secondary adverse effects of each permitting approval relating to the proposed activity.

Upon receipt of an administratively complete consistency certification (31 TAC §506.30(b)) for this proposed project, the Council Secretary will publish public notice of this application and initiate the 45-day consistency review process.

Please contact me at 512-463-5100 or at thomas.calnan@glo.state.tx.us if you have any questions.

Sincerely,

Thomas R. Calnan

Thomas R. Calnan
Coastal Biologist

CC: Port of Houston Authority
Corps of Engineers
Texas Parks and Wildlife Department
National Marine Fisheries Service
U.S. Fish and Wildlife Service

Texas General Land Office

David Dewhurst Commissioner

October 16, 2001

Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, VA 22031

RE: Proposed Burlington Northern Railway in Harris County, Texas

Dear Mr. Summerville:

Thank you for allowing us to comment on Burlington Northern proposed Railway in Harris County. You requested information from the Texas General Land Office (GLO) on any human and natural resources within the project area and any permits that may be needed prior to construction.

The Permanent School Fund (PSF) owns the submerged tidal lands of the State of Texas. Any project that occurs on, under, or above these lands needs an easement from the GLO. In this case a Miscellaneous Easement will be required from the GLO before construction can begin. In processing the easement we will look at potential negative environmental effects that may be caused by the railway.

The EIS will be reviewed for consistency with the Texas Coastal Management Program (CMP). Goals and policies of the CMP are for protecting/restoring/enhancing coastal natural resource areas (CNRAs) in the coastal zone. CMP goals and policies, list and definitions of CNRAs, and other CMP information can be found at our GLO web site:http://www.glo.state.tx.us/coastal/cccrules.html. Please call Tom Calnan at 512-463-5100 or email him at thomas.calnan@glo.state.tx.us if you need additional CMP information.

If you have any questions concerning the permitting process, please contact me at (281) 471-0391, ext. #113.

Sincerely,

Garry McMahan
Regional Manager- Asset Inspections (La Porte)

cc: Tom Calnan

La Porte Field Office

11811 North D Street
La Porte, Texas
77571-9135

281-470-1191

TEXAS HISTORICAL COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWERENCE OAKS, EXECUTIVE DIRECTOR

October 31, 2001

Mr. Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

Re: Project review under Section 106 of the National Historic Preservation Act of 1966
and the Antiquities Code of Texas
Proposed Bayport Loop rail line, Harris County, Texas (Surface Transportation Board)

Dear Mr. Summerville:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed federal undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission. As the state agency responsible for administering the Antiquities Code of Texas, we also provide recommendations on compliance with state antiquities laws and regulations.

The review staff led by Myles Miller has completed its review of available information in our files concerning cultural resources in the area. Based on this review, it is our opinion that the proposed project may have an impact on significant cultural resources, and that an archeological survey of some segments of the proposed project will be necessary prior to construction.

We have been contacted by your archeological consultant, Moore Archeological Consulting, Inc., regarding the project. We will be pleased to work with Dr. Moore to develop a Scope of Work for the cultural resources investigations.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal and state review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Myles Miller at 512/463-5864.**

Sincerely,

for
F. Lawerence Oaks, Executive Director

cc: Roger Moore, Ph.D., Moore Archeological Consulting, Inc.

LO/wjm/mm

P.O. BOX 12276 · AUSTIN, TX 78711-2276 · 512/463-6100 · FAX 512/475-4872 · TDD 1-800/735-2989
www.thc.state.tx.us

Moore Archeological Consulting, Inc.

3511 Houston Avenue Suite B
Houston, Texas 77009
www.moore-archeological.com

Office (713) 861-8663
Laboratory (713) 861-2323
Fax (713) 861-8627

March 4, 2002

Myles Miller
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711-2276

Re: Bayport Loop Rail, Alternative Alignments, Surface Transportation Board Project MAC PN 01-100

Dear Mr. Miller

This is an initial analysis of the survey of Alignment 1 and the reconnaissance of all alternative alignments for the proposed Bayport Loop Build-In in Houston, Texas (see Appendix for alternative routes). The purpose of this analysis is to reassess the methodology utilized during the survey of Alignment 1 and to recommend changes based on these results. It will also consider the results of the initial reconnaissance of the alternative alignments, examination of the soils described for the area, records of known archeological sites, and aerial photographs of the project area. It will also be assessed by comparison to Roger Moore's model (1995).

Survey of Alignment 1, the first proposed alignment, was performed by crews from Moore Archeological Consulting between December 18, 2001 and January 29, 2002. A total of 169 shovel tests were excavated. Of these, 51 (or approximately 30%) were excavated in disturbed soils. Even this number is not an accurate assessment of the total disturbance of this alignment as many clearly disturbed areas were shovel tested at a greatly increased interval (sometimes as much as 1000 meters between tests). These disturbances took the form of plow zones and fill or churning from various construction episodes (roads, straightening of streams, pipeline and other right of ways). It also included industrial parks.

Out of the 169 shovel tests excavated on Alignment 1, 154 (or approximately 91%) were 40 centimeters below surface (cmbs) or less. The bulk of these were within the 30-40 cmbs range[1]. Most shovel tests were excavated in soils where clay was evident at, or immediately below, the surface. No more than 18 shovel tests were deeper than 40 cmbs and none exceeded 65 cmbs. This was the result of encountering dense basal or Pleistocene clays, usually 20 or more centimeters above the final depth.

[1] This is generally considered deep enough to confirm that the shovel test has encountered deep basal or Pleistocene clay.

Only one historic site was found on Alignment 1 for 169 shovel tests. The historic site was determined to be the previously recorded 41HR321 and no further excavations were performed there. No prehistoric sites were found during the survey.

Between February 11and February 21 of 2002, an initial reconnaissance of 10 proposed alternative alignments for the Bayport Rail Loop was performed. This included visual inspection and shovel probes of all accessible corridors and driving or walking some portions of these corridors. Some portions of these alignments were inaccessible due to lack of right of entry. These alternatives add up to a total of approximately 47.7 kilometers. After examination of these routes, it was determined that as much as 48% of the total distance was in already disturbed soils. Again these disturbances took the form of pipeline ROW, roads, flood control channeling, as well as industrial sites and neighborhoods (including those currently under development). One alignment was determined to be 100% disturbed, and another entirely free of disturbance. The remaining eight alignments ranged from 20% to 75% disturbed.

The dominant soils within the proposed alternative alignments are Lake Charles clay, Beaumont clay, and Bernard/Bernard-Edna complex soils. There are smaller pockets of Midland silty clay loam, Vamont clay, and Addick loam (Wheeler 1976). Abbot (2001) considers all these soils to be of low geoarcheological potential. All these soils are somewhat poorly drained to poorly drained. The Edna aspect of the Bernard-Edna soils may contain pimple mounds and the Lake Charles and Beaumont clays may contain clay micro-knolls 6-12 inches above micro-depressions.

Of all previously recorded prehistoric sites within the general vicinity of the project area there is only one that was found more than 300 meters from a stream channel. This one exception is 41HR150, a small lithic scatter, which sits on a small mound adjacent to a pond. Even most historic sites within the general project area appear to be associated with streams, though not all. Other prehistoric sites included lithic and/or ceramic scatters and resource acquisition locations (i.e. shell middens). Historic sites included farmstead foundations and trash scatters. No recorded historic sites within the project corridor predate the early 20t^{h} century. Older editions of the USGS Quadrant maps (originally surveyed in 1915 & 1916) showed no structures within the proposed alternative alignments.

Close examination was made of aerial photographs from a number of sources. The oldest was the 1972 series from the soil manual for Harris County (Wheeler 1976). A series of snapshot aerials from the late 1990's and the more recent aerial project maps supplied by the project manager were also examined. These aerials provided confirmation of disturbances within the project corridor and made visible many of the pimple mounds described in the Edna soil description. Evidence of pimple mounds could be seen in portions of Alignment 3 and Alignment 4 as well as small portions of the original option, Alignment 1. The aerial photographs also allowed limited examinations to be made of portions of the project corridor that could not be examined at all during the reconnaissance due to lack of right of entry.

I assessed the project corridors with respect to a hierarchy of environmental factors that combine to make a locality attractive for prehistoric settlement in inland Harris County (Moore 1995). The factors in combination simply constitute a set of "settlement rules" that define good campsites in similar environments. These include preferences for the following:

1. Site location in the floodplain or on the floodplain/upland margin.
2. Site locations in proximity to sources of potable water.
3. Site locations in forested environments.
4. Site locations on well-drained, loamy soils.
5. Site locations on topographic high points.
6. Site locations on geologic terraces in watersheds with broad 100-year floodplains. These terraces may range from 100 to 1000 meters wide and may be of Late Pleistocene age or younger. They thus represent good settings for the discovery of cultural remains as old as 10-12,000 years before present.
7. Site locations on the upland/floodplain margin typified by the Lissie and Beaumont slopes to streams with broad floodplains. As geologically old surfaces, these upland margins also present potentially good settings for prehistoric remains.

Distance to water is a dominant factor affecting the probability of finding prehistoric sites in southeast Texas. Most prehistoric sites are found within 300 meters of potable water. As discussed previously, all but one known prehistoric site is within 300 meters of a stream channel. The one exception is associated with a pond. There are at least 12 crossings of drainages by the alternative alignments under assessment. These include Horsepen Bayou, Armand Bayou, Willow Springs, Taylor Bayou, Little Cedar Bayou, and Spring Gully. However, many of these streams have been straightened and are no longer in their natural state or original beds.

The other dominant factors are for well-drained loamy soils and topographical high points. Within this project all of the soils are somewhat poorly drained or poorly drained, and most are entirely or predominantly clayey. Topographical high points are limited to the described pimple mounds and microknolls previously mentioned.

In conclusion, I recommend that the following modifications be made to the survey strategy for the alternative alignments.

1st – All segments of the proposed corridors which have been determined to be disturbed should be excluded from any further investigations.

2nd – Survey within 300 meters of stream channels should continue to follow the survey methodology utilized for Alignment 1. This includes a shovel test every 100 meters, and additional shovel testing (a minimum of 6) at streams crossings.

3rd – The remainder of accessible and undisturbed segments of the alternative alignments should be walked and visually surveyed for any historic properties. Additionally, shovel

tests should be performed on a sampling of pimple mounds, microknolls, or other raised features within the alignment corridors, especially those in relation to drainages and pond features.

It is felt that these changes will make the survey methodology more efficient in discovering cultural properties. I recommend that approximately 25 kilometers of the proposed corridors will be surveyed as recommended above, while some 23 kilometers (almost half) of disturbed segments be removed from consideration.

Please let me know at your earliest convenience if you concur with these recommendations or if you have any suggested modifications. We have been requested to conduct survey of the alternative alignments as soon as possible.

Thank you very much,

Douglas G. Mangum

Douglas G. Mangum
Project Archeologist
Moore Archeological Consulting

CC: Mr. Alan Summerville, ICF Consulting

CONCUR
by _____
for F. Lawerence [illegible]
State Historic Preservation Officer
Date 3-14-02

References Cited

Abbot, James T.
2001 *Houston Area Geoarcheology; A Framework for Archeological Investigation, Interpretation, and Cultural Resource Management in the Houston Highway District*. Texas Department of Transportation, Environmental Affairs Division, Archeological Studies Program, Report 27.

Moore, Roger W.
1995 *An Empirical Analysis of Elements of Prehistoric Site location and Formation In Harris County, Texas*. Moore Archeological Consulting, Report of Investigations, Number 149.

Wheeler, Frankie F.
1976 *Soil Survey of Harris County, Texas*. United States Department of Agriculture, Soil Conservation Service and Forest Service, and Texas Agricultural Experiment Station.

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

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JUL 25 2002
TEXAS HISTORICAL COMMISSION

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AUG 19 2002
MAIL MANAGEMENT STB

Section of Environmental Analysis

July 18, 2002

CONCUR
by _____
for F. Lawerence Oaks
State Historic Preservation Officer
Date 8/9/02

Mr. Myles Miller
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711-2276

RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Dear Mr. Miller:

As part of the environmental review process, please find enclosed the draft Archeological Survey and a Finding of No Historic Properties Affected for the proposed Build-Out to the Bayport Loop rail line construction and operation project in Harris County, Texas. I request your review of the two documents, and your concurrence that no further work is necessary under Section 106 of the National Historic Preservation Act.

If you have any questions, please feel free to contact the third party contractor who prepared these materials, Mr. Roger Moore of Moore Archeological Consulting, Inc. at (713) 861-8663 or Dana White of my staff at (202) 565-1552.

Thank you for your continuing assistance.

DRAFT REPORT ACCEPTABLE
Please submit 20 final report copies
by _____
for F. Lawerence Oaks
State Historic Preservation Officer
Date 8/2/02

Sincerely,

for Dana L. White

Victoria Rutson
Chief
Section of Environmental Analysis

cc: Roger Moore, Moore Archeological Consulting, Inc.

November 20, 2001

Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, VA 22031

RE: Proposed San Jacinto Rail Line, Harris County

Dear Mr. Summerville:

Thank you for coordinating with this agency in your planning activities regarding the proposed construction of the San Jacinto Rail Line near the City of Houston. Texas Parks and Wildlife Department (TPWD) staff attended an Agency Consultation Meeting and site visit regarding the project on October 31, 2001. TPWD staff has reviewed the project and offer the following comments.

The project entails the construction and operation of 12.8 miles of new rail line between the Bayport Loop petro-chemical and plastic production facilities and the former Galveston, Henderson & Houston Railroad line near the southeast corner of Ellington Field at Texas State Highway 3. The proposed project would require a 100-foot wide right-of-way. The proposed San Jacinto Rail Line would cross Armand and Taylor Bayous.

For your information, I have attached lists of Endangered and Threatened species that may occur in Harris County. Although this list should prove useful as background material, it is not intended as a substitute for comprehensive on-site evaluations by competent biologists. Determination of the actual presence of a species in a given area depends on a number of variables such as daily and seasonal activity cycles, environmental activity cues, preferred habitat, transiency, and population density (both wildlife and human). Absence of a species can be demonstrated only with great difficulty and then only with repeated negative observations, taking into account all of the variable factors contributing to the lack of observability. Information regarding known locations and potential adverse impacts to sensitive species and natural communities near the proposed project area can be obtained by contacting Celeste Brancel -Brown at the letterhead address or at (512) 912-7021.

Discussions at the October 31, 2001 meeting indicated that consultation with the U.S. Army Corps of Engineers (COE) would occur in developing a mitigation plan for potential impacts to waters of the United States. The January 9, 2001 decision of the U.S. Supreme Court case "*Solid Waste Agency of Northern Cook County* v. *United States Army Corps of Engineers et al.*" removed the regulation of isolated wetlands from the COE permitting process. However, isolated

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wetlands, as well as jurisdictional wetlands, provide valuable habitat for aquatic and terrestrial wildlife. Isolated wetlands within the project area would produce and support plant and invertebrate populations that provide food for a wide variety of waterfowl, wading, and other birds. In addition, these wetlands protect water quality by filtering and retaining freshwater runoff and associated pollutants from adjacent roads and developed properties. TPWD recommends identifying all wetland areas within the project area and minimizing any adverse impacts to isolated wetlands to the same extent as jurisdictional wetlands.

The Department recommends minimizing clearing of riparian vegetation as much as possible. Potential for loss of riparian habitat exists at waterbody crossings and riparian corridors have become increasingly valuable to many wildlife species as other habitat is lost. This is particularly evident in urban areas where the riparian corridor may be the only wildlife habitat left. TPWD recommends mitigating for the loss of the bottomland/riparian woodlands, upland woodlands, native prairie, and any isolated wetlands within the project area. Revegetation plans for disturbed areas within the right-of-way should include the use of site-specific native plant species that have high erosion control as well as high value for wildlife. TPWD requests that a mitigation plan be developed for any unavoidable adverse impacts to these resources and that plan be reviewed by this Department.

In order to reduce impacts to Armand Bayou, TPWD recommends crossing the bayou upstream of the golf course where the bayou has been channelized. The rail line could then continue southwest to the preferred alternative. Essentially this alternative would be a combination of the preferred alternative and another alternative proposed at the October 31st meeting. In addition, TPWD recommends assessing the feasibility of continuing the rail line along Port Road to State Highway 146.

Soil erosion and siltation into Armand Bayou, Big Island Slough, Spring Gully, Taylor Bayou and associated tributaries and drainages should be minimized by using hay bales, silt fence, or similar soil erosion prevention techniques. Hay bales should be certified weed-free or comprised of locally grown hay or straw in order to prevent the introduction of exotic and invasive plant species. In order to enhance the stabilization of exposed soils, newly graded areas should be seeded or sodded with native grasses, leguminous forbs, and trees. Natural buffers contiguous to wetlands and aquatic systems should remain undisturbed, to preserve wildlife cover, food sources, and travel corridors.

The Migratory Bird Treaty Act (MBTA) implicitly prohibits intentional and unintentional take of migratory birds, including their nests and eggs, except where permitted. Measures should be taken to ensure that other migratory bird species

within and near the project areas are not adversely impacted by clearing and construction activities. TPWD recommends contacting the U.S. Fish and Wildlife's Migratory Bird Office at (505) 248-7882 to address potential impacts of project activities on migratory bird populations.

I appreciate the opportunity to review and comment on this project. Please contact Woody Woodrow or Andy Sipocz at (281) 335-0798 or Danny Allen at (512) 389-4579 if we may be of further assistance.

Sincerely,

Danny Allen
Wildlife Habitat Assessment Program
Wildlife Division

cc: Woody Woodrow (Resource Protection)
Andy Sipocz (Resource Protection)

Attachment

DLA:pmo.8915

Notes for
County Lists of
Texas' Special Species

The Texas Parks and Wildlife (TPWD) county lists **include**:

Vertebrates, Invertebrates, and Vascular Plants on the special species lists of the Texas Biological and Conservation Data System. These special species lists are comprised of all species, subspecies, and varieties that are federally listed; proposed to be federally listed; have federal candidate status; are state listed; or carry a global conservation status indicating a species is imperiled, very rare, or vulnerable to extirpation.

Colonial Waterbird Nesting Areas and Migratory Songbird Fallout Areas are contained on the county lists for coastal counties only.

The TPWD county lists **exclude**:

Natural Plant Communities such as Little Bluestem-Indiangrass Series (native prairie remnant), Water Oak-Willow Oak Series (bottomland hardwood community), Saltgrass-Cordgrass Series (salt or brackish marsh), Sphagnum-Beakrush Series (seepage bog).

Other Significant Features such as non-coastal bird rookeries, migratory bird information, bat roosts, bat caves, invertebrate caves, and prairie dog towns.

The **revised date** on each county list reflects the last date any changes or revisions were made for that county and reflects current listing statuses and taxonomy.

Species that appear on county lists do not all share the same probability of occurrence within a county. Some species are migrants or wintering residents only. Additionally, a few species may be historic or considered extirpated within a county. Species considered extirpated within the state are so flagged on each list.

Revised: 11/13/01

The Texas Biological and Conservation Data System

The Texas Biological and Conservation Data System (TXBCD), established in 1983, is the Department's most comprehensive source of information on rare, threatened, and endangered plants and animals, exemplary natural communities, and other significant features. Though it is not all-inclusive, the TXBCD is constantly updated, providing current or additional information on statewide status and locations of these unique elements of natural diversity.

The TXBCD gathers biological information from museum and herbarium collection records, publications, experts in the scientific community, organizations, individuals, and on-site field surveys conducted by TPWD staff on public lands or private lands with written permission. TPWD staff botanists, zoologists, and ecologists perform field surveys to locate and verify specific occurrences of high-priority biological elements and collect accurate information on their condition, quality, and management needs.

The TXBCD can be used to help evaluate the environmental impacts of routing and siting options for development projects. It also assists in impact assessment, environmental review, and permit review.

Given the small proportion of public versus private land in Texas, the TXBCD does not include a representative inventory of rare resources in the state. Although it is based on the best data available to TPWD regarding rare species, these data cannot provide a definitive statement as to the presence, absence, or condition of special species, natural communities, or other significant features in any area. Nor can these data substitute for on-site evaluation by qualified biologists. The TXBCD information is intended to assist the user in avoiding harm to species that may occur.

Please use the following citation to credit the TXBCD as the source for this county level information:

> Texas Biological and Conservation Data System. Texas Parks and Wildlife, Wildlife Diversity Branch. County Lists of Texas' Special Species. [county name(s) and revised date(s)].

For information on obtaining a project review form or a site-specific review of a project area for rare species, please call (512) 912-7011.

Revised: 11/13/01

HARRIS COUNTY

	Federal Status	State Status
***** AMPHIBIANS *****		
Houston Toad (*Bufo houstonensis*) – endemic; species sandy substrate, water in pools, ephemeral pools, stock tanks; breeds in spring especially after rains; burrows in soil when inactive; breeds February-June; associated with soils of the Sparta, Carrizo, Goliad, Queen City, Recklaw, Weches, and Willis geologic formations	LE	E
***** BIRDS *****		
American Peregrine Falcon (*Falco peregrinus anatum*) - potential migrant; nests in west Texas	DL	E
Arctic Peregrine Falcon (*Falco peregrinus tundrius*) - due to similar field characteristics, treat all Peregrine Falcons as federal listed Endangered; potential migrant	DL	T
Attwater's Greater Prairie-chicken (*Tympanuchus cupido attwateri*) - this county within historic range; endemic; open prairies of mostly thick grass one to three feet tall; from near sea level to 200 feet along coastal plain on upper two-thirds of Texas coast; males form communal display flocks during late winter-early spring; booming grounds important; breeding February-July	LE	E
Bald Eagle (*Haliaeetus leucocephalus*) - found primarily near seacoasts, rivers, and large lakes; nests in tall trees or on cliffs near water; communally roosts, especially in winter; hunts live prey, scavenges, and pirates food from other birds	LT-PDL	T
Black Rail (*Laterallus jamaicensis*) – salt, brackish, and freshwater marshes, pond borders, wet meadows, & grassy swamps; nests in or along edge of marsh, sometimes on damp ground, but usually on mat of previous year's dead grasses; nest usually hidden in marsh grass or at base of Salicornia		
Brown Pelican (*Pelecanus occidentalis*) - largely coastal and near shore areas, where it roosts on islands and spoil banks	LE	E
Henslow's Sparrow (*Ammodramus henslowii*) - wintering individuals (not flocks) found in weedy fields or cut-over areas where lots of bunch grasses occur along with vines and brambles; a key component is bare ground for running/walking; likely to occur, but few records within this county		
Mountain Plover (*Charadrius montanus*) - shortgrass plains and plowed fields (bare, dirt fields); primarily insectivorous; winter resident in this area	PT	
Piping Plover (*Charadrius melodus*) – wintering migrant along the Texas Gulf Coast; beaches and bayside mud or salt flats	LT	T
Reddish Egret (*Egretta rufescens*) – resident of the Texas Gulf Coast; brackish marshes and shallow salt ponds and tidal flats; nests on ground or in trees or bushes, on dry coastal islands in brushy thickets of yucca and prickly pear		T
Snowy Plover (*Charadrius alexandrinus*) - wintering migrant along the Texas Gulf Coast beaches and bayside mud or salt flats		
Swallow-tailed Kite (*Elanoides forficatus*) - lowland forested regions, especially swampy areas, ranging into open woodland; marshes, along rivers, lakes, and ponds; nests high in tall tree in clearing or on forest woodland edge, usually in pine, cypress, or various deciduous trees		T
White-faced Ibis (*Plegadis chihi*) – prefers freshwater marshes, sloughs, and irrigated rice fields, but will attend brackish and saltwater habitats; nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats		T

	Federal Status	State Status
White-tailed Hawk (*Buteo albicaudatus*) - near coast on prairies, cordgrass flats, and scrub-live oak; further inland on prairies, mesquite and oak savannas, and mixed savanna-chaparral; breeding March-May		T
Whooping Crane *(Grus americana)* - potential migrant	LE	E
Wood Stork (*Mycteria americana*) - forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading birds (i.e. active heronries); breeds in Mexico and birds move into Gulf States in search of mud flats and other wetlands, even those associated with forested areas; formerly nested in Texas, but no breeding records since 1960		T

*** BIRDS-RELATED ***

Colonial waterbird nesting areas - many rookeries active annually

*** FISHES ***

Creek Chubsucker (*Erimyzon oblongus*) - small rivers and creeks of various types; seldom in impoundments; prefers headwaters, but seldom occurs in springs; young typically in headwater rivulets or marshes; spawns in river mouths or pools, riffles, lake outlets, upstream creeks		T

*** MAMMALS ***

Plains Spotted Skunk (*Spilogale putorius interrupta*) - catholic; open fields, prairies, croplands, fence rows, farmyards, forest edges, and woodlands; prefers wooded, brushy areas and tallgrass prairie		
Rafinesque's Big-Eared Bat (*Corynorhinus rafinesquii*) - roosts in cavity trees of bottomland hardwoods, concrete culverts, and abandoned man-made structures		T
Southeastern Myotis (*Myotis austroriparius*) - roosts in cavity trees of bottomland hardwoods, concrete culverts, and abandoned man-made structures		

*** REPTILES ***

Alligator Snapping Turtle (*Macroclemys temminckii*) - deep water of rivers, canals, lakes, and oxbows; also swamps, bayous, and ponds near deep running water; sometimes enters brackish coastal waters; usually in water with mud bottom and abundant aquatic vegetation; may migrate several miles along rivers; active March-October; breeds April-October		T
Atlantic Hawksbill Sea Turtle *(Eretmochelys imbricata)* - Gulf and bay system	LE	E
Green Sea Turtle *(Chelonia mydas)* - Gulf and bay system	LT	T
Gulf Saltmarsh Snake (*Nerodia clarkii*) - saline flats, coastal bays, & brackish river mouths		
Kemp's Ridley Sea Turtle *(Lepidochelys kempii)* - Gulf and bay system	LE	E
Leatherback Sea Turtle *(Dermochelys coriacea)* - Gulf and bay system	LE	E
Loggerhead Sea Turtle *(Caretta caretta)* - Gulf and bay system	LT	T
Smooth Green Snake (*Liochlorophis vernalis*) - Gulf Coastal Plain; mesic coastal shortgrass prairie vegetation; prefers dense vegetation		T
Texas Diamondback Terrapin (*Malaclemys terrapin littoralis*) - coastal marshes, tidal flats, coves, estuaries, and lagoons behind barrier beaches; brackish and salt water; burrows into mud when inactive; may venture into lowlands at high tide		

	Federal Status	State Status
Texas Garter Snake (*Thamnophis sirtalis annectens*) - wet or moist microhabitats are conducive to the species occurrence, but is not necessarily restricted to them; hibernates underground or in or under surface cover; breeds March-August		
Texas Horned Lizard (*Phrynosoma cornutum*) - open, arid and semi-arid regions with sparse vegetation, including grass, cactus, scattered brush or scrubby trees; soil may vary in texture from sandy to rocky; burrows into soil, enters rodent burrows, or hides under rock when inactive; breeds March-September		T
Timber/Canebrake Rattlesnake (*Crotalus horridus*) - swamps, floodplains, upland pine and deciduous woodlands, riparian zones, abandoned farmland; limestone bluffs, sandy soil or black clay; prefers dense ground cover, i.e. grapevines or palmetto		T

*** VASCULAR PLANTS ***

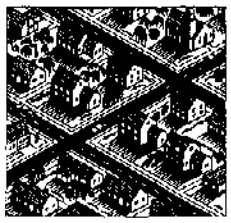
Coastal gay-feather *(Liatris bracteata)* - endemic; black clay soils of prairie remnants; flowering in fall		
Houston machaeranthera *(Machaeranthera aurea)* - endemic; seasonally wet, saline barren areas, around the base of mima mounds in coastal prairies, or barren to somewhat vegetated openings in grasslands, including pastures and roadsides, on loamy to sandy loam soils; flowering October-November		
Texas windmill-grass (*Chloris texensis*) - endemic; sandy to sandy loam soils in open to sometimes barren areas in prairies and grasslands, including ditches and roadsides; flowering in fall		
Texas meadow rue *(Thalictrum texanum)* - endemic; mesic woodlands or forests, including wet ditches on partially shaded roadsides; flowering March-May		
Texas prairie dawn *(Hymenoxys texana)* - endemic; in poorly drained depressions or base of mima mounds in open grasslands or almost barren areas on slightly saline soils; flowering March-early April	LE	E
Threeflower broomweed *(Thurovia triflora)* - endemic; black clay soils of remnant grasslands, also tidal flats; flowering July-November		

LE,LT - Federally Listed Endangered/Threatened
PE,PT - Federally Proposed Endangered/Threatened
E/SA,T/SA - Federally Endangered/Threatened by Similarity of Appearance
C1 - Federal Candidate, Category 1; information supports proposing to list as endangered/threatened
DL,PDL - Federally Delisted/Proposed Delisted
E,T - State Endangered/Threatened
"blank" - Rare, but with no regulatory listing status

Species appearing on these lists do not all share the same probability of occurrence. Some species are migrants or wintering residents only, or may be historic or considered extirpated.

TEXAS PARKS AND WILDLIFE

Wildlife Habitat Assessment Program
Threatened and Endangered Species Review
3000 S. IH-35, Suite 100
Austin, Texas 78704
512/912-7011 phone
512/912-7058 fax
www.tpwd.state.tx.us



Threatened and Endangered Species Review

This service includes an analysis of your site-specific assessment of environmental information and impacts on threatened, endangered, and other rare species, natural communities, and special features presently known and/or potentially occurring in the vicinity of a project. Please complete this form, attach a write-up for Numbers 1 through 8 listed below, and send this information to us at the above address. We will provide you an analysis and/or recommendations based on the most current information available to Texas Parks and Wildlife regarding these sensitive natural resources. Please allow up to 8 weeks for review, depending on the size of your request. Note that the more information you provide, the more customized our review, and the faster our turnaround. If you need only **state or county level information** for preliminary project planning, in lieu of this form please contact our administrative staff at (512) 912-7011.

NAME	DATE
COMPANY	PHONE
ADDRESS	FAX
Project Title:	County(ies):

1) Scope of Project – Why is the review being requested?
   a) What regulations will this review help you to comply with?
   b) What activities will be conducted at the site?

2) Vegetation - structure and composition, vegetation layers, height of layers, dominant species

3) Other Natural Resources/Physical features - watercourses, soils, geology, animals, etc.

4) Improvements - extent of pavement, gravel, shell, or other cover; buildings, landscaped, xeriscaped, drainage system, etc).

- Threatened and Endangered Species Review, contd. -

5) Historic Use of Site - Describe in detail.

6) Has a T & E survey already been performed? If Yes, provide surveyor name, qualifications, survey method; acreage surveyed; level of effort; weather conditions, time of day, and dates the survey was performed.

7) Description of potential negative impacts from project activities and avoidance, minimization, and mitigation measures planned. Describe briefly.

8) Description of planned beneficial enhancements or restoration efforts. Describe briefly.

9) Original(s) or photocopy(ies) of relevant portion(s) of USGS 7.5' topographic quadrangle(s) or best map(s) available.

10) Original(s) or color-copied photograph(s), or aerial photograph(s).

TPWD would like to inform you that due to the increase in requests for **threatened and endangered species review** of proposed projects, charges have been instituted for this service. Since TPWD is largely a self-funded agency, this revenue will allow for additional staffing to provide more timely responses to review requests. The charges are based on a flat fee (minimum charge of $50/project site), except when the project is unusually large ($25/additional hour). The response letter for these projects will be provided within 8 weeks, longer for large projects, and accompanied by an invoice, which will be due upon receipt. Government agencies are exempted from these charges. Private consultants performing work under contract for government entities will be charged.

December 19, 2001

Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, VA 22031

RE: Proposed San Jacinto Rail Line, Harris County

Dear Mr. Summerville:

This letter regarding the proposed San Jacinto Rail Line is meant to clarify the comments provided to you in a November 20, 2001 letter from Texas Parks and Wildlife Department (TPWD) staff. The November 20th letter addressed concerns regarding potential impacts to Armand Bayou. The proposed preferred alternative would cross Armand Bayou within the Armand Bayou Coastal Preserve. The Preserve consists of state-owned submerged lands that are leased to TPWD from the General Land Office. The northern extremity of the Preserve is just below the Armand Bayou crossing at the Genoa-Red Bluff Road and is defined by the point at which the waterway's bottom is elevated above mean high tide.

The Armand Bayou Coastal Preserve was established to protect and perpetuate it as a unique natural area. It is used as a recreational waterway for non-motorized craft, a center for environmental education activities, a scientific research area, and a fish and wildlife refuge. The controlling management goal of the Preserve is to maintain and restore its natural environment. It is a very popular site for canoeing and fishing and is heavily used by the Armand Bayou Nature Center as an education tool.

The construction of a rail line across Preserve properties would detrimentally affect the aesthetic value for visitors and recreationists utilizing the Preserve as well as interfere with environmental education opportunities in conjunction with the Armand Bayou Nature Center. Therefore, TPWD staff discourages implementing the preferred alternative and recommends utilizing an alternative route that would avoid crossing Preserve properties.

I appreciate the opportunity to review and comment on this project. Please contact Woody Woodrow or Andy Sipocz at (281) 335-0798 or Danny Allen at (512) 389-4579 if we may be of further assistance.

Sincerely,

Danny Allen
Wildlife Habitat Assessment Program
Wildlife Division

cc: Woody Woodrow (Resource Protection)
Andy Sipocz (Resource Protection)

DLA:pmo.8915-2nd

4200 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3291
512-389-4800
www.tpwd.state.tx.us

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

April 26, 2002

Mr. Anthony W. Hall, Jr.
City Attorney
City of Houston
900 Bagby, 4th Floor
Houston, TX 77002

RE: Finance Docket No. 34079 - San Jacinto Rail Limited - Construction Exemption - And The Burlington Northern and Santa Fe Railway Company - Operation Exemption - Build-Out to the Bayport Loop Near Houston, Harris County, Texas

Dear Mr. Hall:

In preparation of the Draft Environmental Impact Statement (DEIS) for the above-referenced project, the Section of Environmental Analysis (SEA) requests right-of-entry to the City's property south of the Southeast Water Treatment Plant in order to conduct wetland delineations during the week of May 6, 2002. SEA, and its independent third-party contractor, ICF Consulting, plans to conduct this field work jointly with the Applicants. We believe a joint effort for this purpose will be the most efficient since SEA needs wetlands delineation information for the DEIS, and the Applicants need the information for their Application to the U.S. Army Corps of Engineers, under Section 404 of the Clean Water Act.

I hope that you will be able to assist us. To discuss arrangements for this important field work, or to answer any questions you might have, please contact Alan Summerville, ICF Consulting, at (703)934-3616, or Dana White of my staff at (202) 565-1552. Thank you for your attention to this matter.

Sincerely,

Victoria Rutson
Chief
Section of Environmental Analysis

cc: Alan Summerville, ICF Consulting

CITY OF HOUSTON
Lee P. Brown
Mayor

CITY COUNCIL MEMBERS: CAROL ALVARADO, MICHAEL BERRY, ADA EDWARDS, MARK A. ELLIS, CAROL M. GALLOWAY, MARK GOLDBERG, BERT KELLER, ANNISE D. PARKER, GORDON QUAN, CARROLL G. ROBINSON, SHELLEY SEKULA-GIBBS, M.D., BRUCE TATRO, GABRIEL VASQUEZ, ADDIE WISEMAN
CITY CONTROLLER: SYLVIA R. GARCIA

HOUSTON AIRPORT SYSTEM
BUSH INTERCONTINENTAL AIRPORT
HOBBY AIRPORT
ELLINGTON FIELD

DIRECTOR OF AVIATION: RICHARD M. VACAR, A.A.E.

August 5, 2002

Mr. Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031-1207

Reference: Transmittal of Draft Site Suitability Analysis – Ellington Field, Houston, Texas

Dear Mr. Summerville:

Enclosed is a draft technical memorandum from the Ellington Field Master Plan Update entitled *Site Suitability Analysis*. This is in your response to your request for information on the strategic assessment for Ellington Field. The document is in draft form and will be incorporated into the master plan documentation when it is finalized.

If you have any questions regarding the memorandum or any questions related to the preparation of the Ellington Field Master Plan Update, please feel free to contact me at 281/233-1973 or via email at kent.mclemore@cityofhouston.net.

Sincerely,

Kent R. McLemore, Ph.D., AICP
Assistant Director of Aviation
Manager – Planning Division

KRM:bgt

Enclosure

cc: Mr. Eric R. Potts
Mr. John Jackson
Mr. Bill Calderon
Mr. Ben Guttery
Central File

DEPARTMENT OF AVIATION
POST OFFICE BOX 60106 HOUSTON, TEXAS 77205-0106 TEL: 281/233-3000 FAX: 281/233-1874

Harris County
Flood Control District

9900 Northwest Freeway
Houston, Texas 77092
713-684-4000

February 1, 2002

Ms. Dana White
Office of the Secretary
Case Control Unit
STB Finance Docket No. 34079
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Reference: San Jacinto Rail Limited
Potential Environmental Issues and Impacts

Dear Ms. White:

This letter serves to inform the Surface Transportation Board of concerns of the Harris County Flood Control District (HCFCD) regarding potential environmental impacts of the above referenced project.

The HCFCD was established by an act of the Texas Legislature in 1937 for "the control, storage, preservation, and distribution of... flood waters... the reclamation and drainage of the overflow land of Harris County, the conservation of forests, and to aid in the protection of navigation on the navigable waters." The HCFCD summarizes its mission today to "strive to build flood control projects that work, with proper regard for community and natural values." In that capacity, the HCFCD feels that the following issues must be raised:

1. The crossing of Armand Bayou for the proposed "preferred alternative" alignment ("Alignment 1"), may have potential impacts to Navigable Waters of the United States, as defined at 33 CFR, Part 329 §329.4. Coordination should be undertaken with the Galveston District of the U.S. Army Corps of Engineers (USACE) to determine potential jurisdiction under Section 10 of the Rivers and Harbors Act of 1899.

2. Alignment 1 may have impacts to a HCFCD regional stormwater detention basin (B504-01-00), which is located adjacent to Ellington Field. The bottom of this basin contains created wetlands that serve as partial wetlands mitigation under Permit #21155, issued by the USACE on 12/15/99. Coordination should be undertaken with the USACE to determine if permitting issues under Section 404 of the Clean Water Act will be involved.

3. Alignment 1 may have impacts to an extensive wetlands mitigation area for the Space Center Boulevard extension project immediately east of Ellington Field. This mitigation was required by the USACE under Permit #21155, issued by the USACE on 12/15/99. Coordination should be undertaken with the USACE to determine if permitting issues under Section 404 of the Clean Water Act will be involved.

HARRIS COUNTY

DEPARTMENT OF PUBLIC INFRASTRUCTURE
ENGINEERING DIVISION

1001 Preston Avenue
Seventh Floor
Houston, Texas 77002
(713) 755-5370

23 October 2001

Mr. Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

SUBJECT: **Finance Dockett No. 34079 – San Jacinto Rail Limited – Construction Exemption – and The Burlington Northern and Santa Fe Railroad Company – Operation Exemption – Build-Out to the Bayport Loop near Houston, Harris County, Texas**

Dear Mr. Summerville:

Thank you for allowing Harris County the opportunity to provide preliminary comments for your consideration in the preparation of an Environmental Impact Statement (EIS) on the rail project referenced above. The proposed alignment will impact agencies other than Harris County that you will need to obtain plan approval and permits from. Some of these agencies are the City of Houston, City of Pasadena and the Texas Department of Transportation.

Harris County would like to meet with your office before the preparation of the EIS to discuss the following items:

1. Space Center Boulevard is presently under construction. The road will be a major thoroughfare and evacuation route during storms and hurricanes for the citizens of the Clear Lake area. The proposed rail will cross the road. This will have a major impact on traffic and on the evacuation route. What is the proposed design for the rail crossing at this location (at grade, overpass, underpass)?

2. The proposed rail between Ellington Field and Red Bluff Road is located in the environmentally sensitive Armand Bayou area. A permit from the Corps of Engineers (CORP) may be required.

4. Although the proposed project only names certain existing industries within the Bayport complex as potential users of this rail line, implying that only pelletized plastics in closed hopper cars will be transported over the proposed line, there is no guarantee that other existing or future industries in the area will not utilize this rail line. If so, the potential exists for liquid hydrocarbons and petrochemicals to be transported across Armand Bayou, Taylor Bayou, Big Island Slough, and Horsepen Creek. All of these streams are direct tributaries to highly sensitive estuarine waters and wetlands. We would strongly recommend that the proposed bridge crossings of these streams be designed in a manner such that no runoff from a potential derailment can enter these waters. We would suggest a bridge design similar to that used for the Interstate Highway 220 bridge over Cross Lake in Shreveport, Louisiana. This design insures that all runoff is carried by sealed pipes beyond both ends of the bridge and into retention ponds which allow for containment and clean-up of chemical spills.

5. The design of all bridge crossings of HCFCD facilities must be coordinated with HCFCD in order to insure that flood flows from the 24-hour 1% probability storm can be accommodated, and that the capacity of B504-01-00 is not reduced.

We would ask that HCFCD be kept fully informed of the progress of this EIS and be allowed to comment on the Draft and Final versions. Your serious consideration of the above comments will be greatly appreciated. If you have need of clarification of any of the above, or have any other questions, please feel free to contact me at 713-684-4192.

Sincerely,

Glenn W. Laird, AICP
Acting Environmental Services Dept. Manager

GWL:klr

cc: Mike Talbott
Gary Green

S:\SHARED\OPS\NVR\Projects\02-L2-1 STB EIS Scoping Letter.doc

Chris Batt, M.D., M.P.H.
Acting Director
(713) 439-6000
Fax: (713) 439-6080

Public Health & Environmental Services
Pollution Control Division
107 North Munger, P.O. Box 6031
Pasadena, Texas 77506

Bob Barrett, M.S.
Assistant Director
Pollution Control
(713) 920-2831
Fax: (713) 477-8963

November 5, 2001

Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

Re: Proposed Burlington Northern and Santa Fe Railway Company-Bayport Loop

Dear Mr. Summerville:

In response to the October 3, 2001 Surface Transportation Board letter, Harris County Public Health and Environmental Services, Pollution Control Division, is providing comment on the following two issues. Issue one, the requirement to obtain Harris County permits and/or approvals for the proposed project and issue two, comment concerning potential impacts of the proposed project. Due to the potential impacts discussed in issue two, Harris County Pollution Control is requesting that a worst case disaster review be conducted.

Issue One-Storm Water Permit Applicability: The proposed route will run through several jurisdictions including an unincorporated area of Harris County. Under the Harris County Storm Water Quality Regulations a storm water quality permit for the construction activity may be required to be obtained from Harris County. For a determination, contact Trent Martin, Harris County Engineering at 713-316-3592.

Issue Two-Potential Environmental Impact: From the project location map, it appears that the proposed rail line will cross four major bayous that discharge into either into Armand Bayou or Taylor Lake, both of which are sensitive ecosystems. A chemical spill due to a train derailment carrying hazardous materials has the potential to severely impact not only the immediate bayou system but also the downstream marshlands. Environmentally conscientious groups take great care in the cleaning, replanting and maintenance of these marshland areas.

Significant residential area growth has occurred which is not depicted on the project location 1992 topo map attached to the October 3rd letter. That additional growth represents an increased population that will be put at risk if a hazardous materials incident occurs in that area.

If you have any questions concerning our disaster review request or the comments made I can be reached at 713-920-2831.

Sincerely,

Bob Allen
Technical Manager

HARRIS COUNTY

DEPARTMENT OF PUBLIC INFRASTRUCTURE
ENGINEERING DIVISION

1001 Preston Avenue
Seventh Floor
Houston, Texas 77002
(713) 755-5370

23 October 2001

Mr. Alan Summerville
ICF Consulting
9300 Lee Highway
Fairfax, Virginia 22031

SUBJECT: **Finance Dockett No. 34079 – San Jacinto Rail Limited – Construction Exemption – and The Burlington Northern and Santa Fe Railroad Company – Operation Exemption – Build-Out to the Bayport Loop near Houston, Harris County, Texas**

Dear Mr. Summerville:

Thank you for allowing Harris County the opportunity to provide preliminary comments for your consideration in the preparation of an Environmental Impact Statement (EIS) on the rail project referenced above. The proposed alignment will impact agencies other than Harris County that you will need to obtain plan approval and permits from. Some of these agencies are the City of Houston, City of Pasadena and the Texas Department of Transportation.

Harris County would like to meet with your office before the preparation of the EIS to discuss the following items:

1. Space Center Boulevard is presently under construction. The road will be a major thoroughfare and evacuation route during storms and hurricanes for the citizens of the Clear Lake area. The proposed rail will cross the road. This will have a major impact on traffic and on the evacuation route. What is the proposed design for the rail crossing at this location (at grade, overpass, underpass)?

2. The proposed rail between Ellington Field and Red Bluff Road is located in the environmentally sensitive Armand Bayou area. A permit from the Corps of Engineers (CORP) may be required.

3. The proposed rail will cross Armand Bayou and numerous other outfall ditches. The Flood Control Division of the Harris County Public Infrastructure Department will have to approve the construction drawings of the work proposed in their right-of-way. Approval may also be required from the Engineering Division of the Harris County Public Infrastructure Department.

4. Harris County obtained a permit from the CORP to construct Space Center Boulevard. A developer also obtained a permit from the CORP to develop the adjacent property. The permits required Harris County to construct on-site a 52-acre wetland mitigation area. The proposed rail may impact this wetland site.

5. The proposed rail will cross Red Bluff Road. The issue here is the same as Item 1.

6. The proposed rail runs parallel to and crosses Port Road located east of S.H. 146. Port of Houston Authority has major plans to expand the Bayport Terminal Complex. Any proposed rail work needs to be coordinated with the Port Authority in order to avoid conflicts.

7. The proposed rail (dam) will have an impact on existing drainage. In areas of Harris County jurisdiction a complete engineering study will be required following the design criteria of the Flood Control Division and the Engineering Division of the Harris County Public Infrastructure Department. These agencies will have to approve the report and the related construction drawings for the project.

8. The proposed rail will carry 1,500 to 7,000 loaded railcars per year with hazardous material. The "potential" does exist for contamination of any water systems in the area. This issue needs to be addressed.

9. A maintenance program for the monthly mowing of grass and the removal of debris (tires, etc.) from the railroad drainage ditches (right-of-way) should be established by the rail owner.

10. Rail owner shall install at grade crossings self actuated signalization and gate arms on Harris County maintained roads where Harris County has approved at grade crossings.

11. Approval will be required from the Engineering Division of the Harris County Public Infrastructure Department for work proposed in Harris County road right-of-way and in other areas where Harris County has jurisdiction.

12. Rail crossing of pipelines (not in Harris County right-of-way) and other utilities need to be approved by the owner of the pipeline or utility.

13. The EIS Report should address a program by the rail owner for emergency clean up of any spills.

14. The EIS Report should address the proposed rail project impact on the quality of human environment in the area. The report should address the potential increase usage of the rail line in the future and its impact on the environment.

Thank you again for the opportunity to make these comments. I will be waiting to here from you in order to schedule a meeting to discuss the issues.

Sincerely,

Robert L. Castille, P.E.
Technical Assistant for
Precinct 2

RLC/lc

cc: Elmo Wright, Pct. 2
Arthur L. Storey, Jr., HCPID
Mike Talbott, HCFCD
Jackie L. Freeman, HCPID
Deborah M. Vaughn, HCPID
Frank Ma, HCPID
John Blount, HCPID
Central File